

## Dishonored Checks Cases

A person is guilty of issuing a dishonored check if at the time of issuance, they intended the check not be paid (checks usually returned account closed or insufficient funds).

The Duluth Police Department will not accept dishonored check cases for which the amount of the check or aggregated checks is \$500 or less. In these cases, you can pursue the case through conciliation court (<http://www.mncourts.gov/Help-Topics/Conciliation-Court.aspx>) or a collection agency.

If the check is more than \$500 or you have received multiple checks from the same person within six (6) months that total more than \$500, do not report it to the police until you have read and completed the following procedure:

### Check Processing Procedure

To enable the Duluth Police Department and the Saint Louis County Attorney to prosecute "Insufficient Funds" and "Account Closed" checks, the following procedure must be followed, as required by Minnesota Statute § 609.535. This Department will not investigate/refer for prosecution checks that are:

1. More than 90 days old.
2. Post-dated checks.
3. Promissory notes and/or arrangement to hold the check for deposit or credit extensions.
4. Two-party checks.
5. Checks upon which partial payments have been made.
6. Credit card checks (except forgeries).
7. Checks without "sufficient identity information".
8. Checks that are currently in collections by a collection agency or attorney.

"Sufficient identity information" means that the business obtained the full name, current address, and either a verified date of birth or a verified driver's license number, tribal identification number, or Minnesota identification number for the person presenting the check.

### Procedure:

By statute, you must send a "*Notice of Demand for Payment of a Dishonored Check*" form (see last page) to the address listed on the check. Photocopy and send the Notice by First Class or Certified mail to the issuer. If you mailed the Notice by First Class Mail, you must complete an Affidavit of Mailing and sign it in front of a Notary Public. If you mailed the Notice by Certified Mail with Return Receipt Requested and the issuer receives it, the "green card" will be returned to you in approximately five days by the Post Office. If the issuer does not receive it, the letter and "green card" will be returned in approximately 15 days.

### Documentation Needed for Prosecution:

1. Original check or if not available, a copy.
2. Copy of the *Notice and Demand for Payment of a Dishonored Check*.
3. Return receipt (green card) or Affidavit of Mailing (with returned envelope, if returned to you as undelivered).
4. Completed Checklist (see next page).

When you have this documentation, send it to the Duluth Police Department, Financial Crimes Unit, 2030 N. Arlington Avenue, Duluth, MN 55811.

If the issuer has paid you for the worthless check after you submitted this documentation to the Duluth Police Department, you must notify the Police Department at (218) 730-5160 as soon as possible. Please do not hesitate to contact us if you have any questions or concerns.

# CHECKLIST

**\*PLEASE FILL OUT THIS FORM AS THOROUGHLY AS POSSIBLE TO AID IN PROSECUTION\***  
You may be asked to swear, under oath, to the accuracy of this document.

## CHECK INFORMATION:

ACCOUNT HOLDER: \_\_\_\_\_

CHECK AMT. \$ \_\_\_\_\_ DATE OF CHECK \_\_\_\_\_ CHECK NO. \_\_\_\_\_

NAME OF PAYEE: \_\_\_\_\_

BUSINESS ADDRESS AND PHONE: \_\_\_\_\_

CHECK PRESENTED FOR (Check One): Cash  Merchandise

## IDENTITY INFORMATION:

PERSON WHO ACCEPTED CHECK: \_\_\_\_\_

ADDRESS/PHONE \_\_\_\_\_ DATE CHECK WAS ACCEPTED: \_\_\_\_\_

WAS CHECK: POSTDATED: Yes  No  PAYMENT ON ACCOUNT: Yes  No   
MORE THAN 90 DAYS OLD: Yes  No  TWO-PARTY CHECK: Yes  No   
CAN PERSON WHO ACCEPTED CHECK IDENTIFY PASSER OF CHECK? Yes  No

WAS IDENTIFICATION MADE OF PASSER OF THE CHECK BY PHOTOGRAPH IN A DRIVER'S LICENSE OR OTHER PICTURE IDENTIFICATION? Yes  No

## DID CLERK:

OBTAIN AND VERIFY ISSUER'S DATE OF BIRTH? Yes  No   
VERIFY DRIVER'S LICENSE NUMBER, MN ID, or TRIBAL ID NUMBER? Yes  No   
VERIFY CURRENT ADDRESS? Yes  No   
OBTAIN A FULL NAME OF THE PRESENTER? Yes  No   
DOES THE BUSINESS HAVE VIDEO OR OTHER RECORDINGS SHOWING THE TRANSACTION? Yes  No

## NOTICE REQUIREMENTS:

REASON CHECK WAS RETURNED BY BANK? NSF  ACCT CLOSED  FORGERY   
WAS PERSON NOTIFIED BY: CERTIFIED MAIL  RETURN RCPT  1<sup>ST</sup> CLASS MAIL

COPY OF LETTER ATTACHED: Yes  No  IF NOT, WHY? \_\_\_\_\_

COMMENTS REGARDING ATTEMPTS TO CONTACT THE ISSUER OR RELATING TO IDENTITY:

\_\_\_\_\_  
\_\_\_\_\_

NAME OF PERSON COMPLETING THIS FORM: \_\_\_\_\_

POSITION WITH PAYEE: \_\_\_\_\_

## FOR OFFICE USE ONLY:

ACCEPTED FOR DIVERSION  DECLINED PROSECUTION:  REFERRED FOR IMMEDIATE PROSECUTION:

# NOTICE AND DEMAND FOR PAYMENT OF A DISHONORED CHECK

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\_\_\_\_\_, you are hereby notified that check number \_\_\_\_\_ issued  
(Defendant Full Name) (Check Number)  
by you on \_\_\_\_/\_\_\_\_/20\_\_\_\_, made payable to \_\_\_\_\_, in the  
(Check Date) (Business Name)  
amount of \$ \_\_\_\_\_ and drawn upon the \_\_\_\_\_ Bank of  
(Check Amount) (Bank Name)  
\_\_\_\_\_, has been dishonored.  
(Bank Address)

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**DEMAND** is hereby made for the payment of the above-mentioned dishonored check. Pursuant to Minnesota Statute Section 609.535 and Minnesota Statute Section 604.113 you have five (5) business days from the date this notice was mailed to you to tender payment in the full amount to the holder of the check. The payment must be made by cash, certified check, cashier's check or a money order. The holder of the check may impose a service charge, not to exceed \$30, for each dishonored check, regardless of mailing a Notice of Dishonor.

If you fail to pay this check in full within five (5) business days the holder of the check may turn over the dishonored check and all other available information to law enforcement and prosecuting authorities for criminal prosecution. Minnesota Statute declares that a person who is convicted of Issuing a Dishonored Check may be sentenced to five (5) years imprisonment or a fine of \$10,000, or both if the value of the check(s) is/are more than \$500 or one (1) year imprisonment or a fine of \$3,000, or both if the value of the check(s) is/are more than \$250 but not more than \$500 or ninety (90) days imprisonment or a fine of \$1,000, or both if the value of the check(s) is/are less than \$250.

Dated: \_\_\_\_\_

Remit to:

\_\_\_\_\_  
(Your Business Name and Address or Your Name and Address)

Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_